



UNITED STATES ENVIRONMENTAL PROTECTION AGENCY  
REGION III  
1650 Arch Street  
Philadelphia, Pennsylvania 19103-2029

**BY OVERNIGHT MAIL**

MAY 29 2012

American Premier Underwriters, Inc.  
James E. Evans, President  
1 East Fourth Street  
Cincinnati, OH 45202

**Re: Special Notice/Demand Letter for the Sauer Dump Superfund Site, Dundalk, MD**

Dear Mr. Evans:

This letter follows the general notice letter that the U.S. Environmental Protection Agency ("EPA") sent to American Premier Underwriters, Inc. (hereinafter "you") on November 9, 2005, in connection with the Sauer Dump Site located in Dundalk, Baltimore County, Maryland ("Site"). In that letter, EPA notified you of your potential responsibility under Section 107(a) of the Comprehensive Environmental Response, Compensation, and Liability Act ("CERCLA" or "Superfund"), 42 U.S.C. § 9607(a), for the cleanup of the Site, including all costs incurred by the EPA in responding to releases at the Site. EPA is now contacting you in an attempt to resolve your responsibility at the Site.

A Remedial Investigation and Feasibility Study ("RI/FS") is necessary to determine the appropriate course of action at the Site. A Remedial Investigation ("RI") identifies site characteristics and defines the nature and extent of soil, air, surface water, and groundwater contamination at the Site and the risks posed by the Site. A Feasibility Study ("FS") evaluates different cleanup options for the Site. EPA is now contacting you to provide you with an opportunity to conduct the RI/FS. Toward that end, this letter contains:

1. Notification that a limited period of formal negotiations for an agreement under which you will conduct the RI/FS and reimburse EPA's oversight costs begins with your receipt of this letter ("Special Notice");
2. General and site-specific information to assist you in these negotiations; and
3. A proposed administrative consent order, as described below.

EPA has determined that use of the special notice procedures set forth in Section 122(e) of CERCLA, 42 U.S.C. § 9622(e), may facilitate a settlement between you, the other potentially responsible parties ("PRPs"), and EPA for performance of an RI/FS at the Site.

Under Section 122(e), this letter triggers a sixty (60)-day moratorium on certain EPA response activities at the Site. During this 60-day period, you and the other PRPs are invited to participate in formal negotiations with EPA in an effort to reach a settlement to conduct or finance the RI/FS. The 60-day negotiation period ends on sixty (60) calendar days from your receipt of

this letter. The 60-day negotiation moratorium will be extended for an additional thirty (30) days if the PRPs provide EPA with a "good faith offer" to conduct or finance the RI/FS. If the moratorium is extended for an additional thirty (30) days, negotiations will conclude ninety (90) calendar days from the date you receive this letter. If settlement is reached between EPA and the PRPs within the 90-day negotiation moratorium, the settlement will be embodied in an Administrative Settlement Agreement and an Order on Consent for RI/FS ("AOC" or "Administrative Order").

### **GOOD FAITH OFFER**

A draft Administrative Order is enclosed to assist you in developing a "good faith offer." As indicated, the 60-day negotiation moratorium triggered by this letter is extended for thirty (30) days if the PRPs submit a "good faith offer" to EPA. A "good faith offer" to conduct or finance the RI/FS is a written proposal that demonstrates the PRPs' qualifications and willingness to conduct or finance the RI/FS and includes the following elements:

1. A statement of willingness by the PRPs to conduct or finance an RI/FS that is consistent with the draft Administrative Order and provides a sufficient basis for further negotiations;
2. A paragraph-by-paragraph response to EPA's draft Administrative Order;
3. A demonstration of the PRPs' technical capability to carry out the RI/FS, including the identification of the firm(s) that may actually conduct the work or a description of the process they will use to select the firm(s);
4. A demonstration of the PRPs' capability to finance the RI/FS;
5. A statement of willingness by the PRPs to reimburse EPA for costs incurred in overseeing the PRPs' conduct of the RI/FS; and
6. The name, address, and phone number of the party or steering committee who will represent the PRPs in negotiations.

### **DEMAND FOR REIMBURSEMENT OF COSTS**

With this letter, EPA demands that you reimburse EPA for its costs incurred to date, and encourages you to voluntarily negotiate an Administrative Order in which you and other PRPs agree to perform the RI/FS.

In accordance with Section 106 of CERCLA, 42 U.S.C. § 9606, EPA has already taken certain response actions and incurred certain costs in response to conditions at the Site. These response actions include:

1. Administrative Order for Removal Response Action, Docket No. CERC-03-2006-0030DC, 12/08/2005
2. Administrative Order for Removal Response Action, Docket No. CERC-03-2006-0239DC, 8/18/2006
3. Engineering Evaluation/Cost Analysis Sauer Dump Site, April 2009

EPA is seeking to recover from you and other PRPs at the Site its response costs and all the interest authorized to be recovered under Section 107(a) of CERCLA. To date, the approximate total response costs identified through 2/29/2012 for the Site are \$1,714,197.33. Under Section 107(a) of CERCLA, EPA hereby makes a demand for payment from you and other PRPs for the above amount plus all interest authorized to be recovered under Section 107(a). A summary of these costs is enclosed as Attachment A.

While this letter demands that you reimburse EPA for all funds spent at the Site, EPA is aware that the financial ability of some PRPs to contribute toward the payment of response costs at a site may be substantially limited. If you believe, and can document, that you fall within this category, please contact Cynthia Nadolski at 215-814-2673 for information on "Ability to Pay Settlements." In response, you will receive a package of information about such settlements and a form to fill out with information about your finances, and you will be asked to submit financial records including business federal tax returns. If EPA concludes that you have a legitimate inability to pay the full amount, EPA may offer a schedule for payment over time or a reduction in the total amount demanded from you.

Some or all of the costs associated with this notice may be covered by current or past insurance policies issued to you. Most insurance policies will require that you timely notify your carrier(s) of a claim against you. To evaluate whether you should notify your insurance carrier(s) of this demand, you may wish to review current and past policies, beginning with the date of your first contact with the Site, up to the present. Coverage depends on many factors, such as the language of the particular policy and state law.

In the event that you file for protection in a bankruptcy court, you must include EPA as a creditor, because EPA has a potential claim against you. EPA reserves the right to file a proof of claim or application for Reimbursement of Administrative Expenses.

### **PRP STEERING COMMITTEE**

To assist PRPs in negotiating with EPA concerning this matter, EPA is attaching to this letter a list of the names and addresses of other PRPs to whom it is sending this Notice. This list is enclosed as Attachment B.

EPA recommends that all PRPs meet to select a steering committee responsible for representing the group's interests. EPA recognizes that the allocation of responsibility among PRPs may be difficult. If PRPs are unable to reach consensus among themselves, we encourage the use of the services of a neutral third party to help allocate responsibility. Third parties are available to facilitate negotiations. At the PRPs' request, EPA will provide a list of experienced third-party mediators, or help arrange for a mediator.

### **ADMINISTRATIVE RECORD**

In accordance with Section 113 of CERCLA, 42 U.S.C. § 9613, EPA has established an Administrative Record containing the documents that serve as the basis for EPA's selection of the appropriate response action for the Site. A copy of the record for each response action selected for the Site will be available on the internet at [www.epa.gov/arweb](http://www.epa.gov/arweb) or may be available in hardcopy at specific locations. You may wish to review the Administrative Record to assist you in responding to this letter, but your review should not delay such response beyond the 60-day period provided by Section 122(e) of CERCLA.

## **PRP RESPONSE AND EPA CONTACT PERSON**

You are encouraged to contact EPA within sixty (60) calendar days of your receipt of this letter to indicate your willingness to participate in future negotiations concerning this Site. You may respond individually or through a steering committee if such a committee has been formed. If EPA does not receive a timely response, EPA will assume that you do not wish to negotiate a resolution of your liabilities in connection with the Site, and that you have declined any involvement in performing the response activities.

Your response to this Special Notice and the demand for costs included herein, including written proposals to perform the RI/FS for the Site, should be sent to:

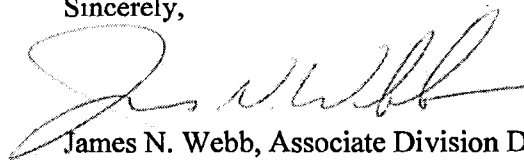
U.S. Environmental Protection Agency Region 3  
Nick Tymchenko  
Remedial Project Manager  
Hazardous Site Cleanup Division (3HS22)  
1650 Arch St.  
Philadelphia, PA 19103

The factual and legal discussions in this letter are intended solely to provide notice and information, and such discussions are not to be construed as a final EPA position on any matter set forth herein. Due to the seriousness of the environmental and legal problems posed by the conditions at the Site, EPA urges that you give immediate attention and prompt response to this letter.

If you have any questions regarding the technical aspects of this letter, please contact Nick Tymchenko, Remedial Project Manager, at 215-814-2022. If you have an attorney handling your legal matters, please direct his or her questions to Cynthia Nadolski, Senior Assistant Regional Counsel, at 215-814-2673.

My staff and I look forward to working with you during the coming months.

Sincerely,



James N. Webb, Associate Division Director  
Office of Superfund and Site Remediation  
Hazardous Site Cleanup Division

Enclosure

Attachments: A: Cost Summary  
B: Names and addresses of other PRPs

cc: Kim LeMaster, MDE  
Peter Knight, NOAA  
Benjamin G. Stonelake, Esq., Blank Rome LLP